

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Veronica Cunningham,  
Plaintiff-Respondent,

-against-

M-544X  
Index No. 22988/06

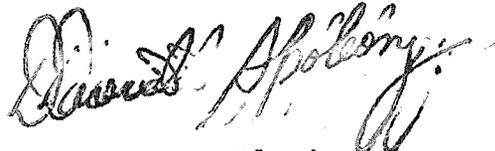
Vanessa Burton,  
Defendant-Appellant.  
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about August 7, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" January 29, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Chelsea Billiards Inc.,  
Plaintiff-Appellant,

-against-

M-566X  
Index No. 603053/08

New York Billiards Corp., et al.,  
Defendants-Respondents.

-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about December 29, 2008 (mot. seq. no. 001), July 1, 2009 (mot. seq. no. 003) and July 2, 2009 (mot. seq. no. 002), respectively,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" January 29, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Future Communications Corporation of  
New York doing business as Virtual  
Service,  
Plaintiff-Respondent,

-against-

M-567X  
Index No. 109724/08

Metropolitan Realty Group LLC,  
Defendant-Appellant.  
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 24, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 1, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Vanessa Mercado,  
Plaintiff-Appellant,

-against-

M-568X  
Index No. 101725/06

BMW of North America, LLC and BMW  
of Manhattan, LLC,  
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 16, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 1, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Rosalyn H. Richter, Justices.

-----X  
Abacas, a division of Doubleclick,  
Inc.,

Plaintiff-Respondent,

M-5684

Index No. 115873/04

-against-

Datagence, Inc., et al.,

Defendants-Appellants.  
-----X

Defendants-appellants having moved for reargument of the decision and order of this Court entered on October 22, 2009 (Appeal No. 1233),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez. Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,  
Respondent,

M-42  
-against- Ind. No. 4862/06

Richard Allende,  
Defendant-Appellant.

-----X

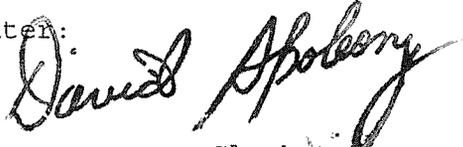
Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of **resentence** of the Supreme Court, New York County, rendered on or about November 13, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

Enter:  
  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-34  
Ind. No. 664/08

Miguel Matias,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about November 4, 2009, and for leave to prosecute the appeal as a poor person on the original record and upon a reproduced appellant's brief, and for assignment of counsel,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the notice of appeal timely filed, and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-41

Ind. No. 3938/08

Tony Clanton, also known as Tony Clauton,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about June 18, 2009, and for leave to prosecute the appeal as a poor person on the original record and upon a reproduced appellant's brief, and for assignment of counsel,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the notice of appeal timely filed, and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Tel. No. (212) 577-3688 is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-32

Ind. No. 3171/07

Thomas Fulton,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about July 16, 2009, and for leave to prosecute the appeal as a poor person on the original record and upon a reproduced appellant's brief, and for assignment of counsel,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the moving papers a timely filed notice of appeal, and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Tel. No. (212) 577-3688 is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-36

Ind. No. 6414/04

Jael Montan, also known as Joel Montas,

Defendant-Appellant.  
-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about October 6, 2009, for leave to prosecute the appeal as a poor person, on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted only to the extent of deeming the notice of appeal timely filed.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101(a), setting forth facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-29  
Ind. No. 3339/08

Ivan Medina,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about June 5, 2009, for leave to prosecute the appeal as a poor person, on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted only to the extent of deeming the notice of appeal timely filed.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to pay the fee of trial counsel, Edward Wilford, Esq., and to post the \$20,000/\$50,000 bail in the Supreme Court, and the disposition thereof, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-38  
Ind. No. 6372/07

Rolando Rodriguez, also known as  
Rolando A. Rodriguez,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about March 16, 2009, for leave to prosecute the appeal as a poor person, on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted only to the extent of deeming the notice of appeal timely filed.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, "Wilens & Baker", as well as the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
In the Matter of

Voices of the Everyday People (VOTE People), Evan Blum, Hassan Farrah, Eda Hallinan, S. Chink Pope, and The Harlem Tenants Council, Petitioners-Appellants,

For a Judgment Pursuant to Article 78 of the CPLR,

-against-

M-25  
Index No. 106025/08

The City of New York, Michael Bloomberg in his official capacity as Mayor, The City Planning Commission, The Department of City Planning, Amanda Burden in her official capacity as Commission Chairperson and Department Director, The City Council, Christine Quinn in her official capacity as Speaker, Respondents-Respondents.

-----X

Petitioners having moved for an enlargement of time in which to perfect the appeal from a judgment of the Supreme Court, New York County, entered on or about November 28, 2008 (mot. seq. no. 001),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the June 2010 Term, with no further enlargements to be granted.

ENTER:   
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
Pierre Maccagno, Ph.D.,  
Plaintiff-Appellant,

-against-

M-5836  
Index No. 601054/09

John J. Prior, Jr., George A. Needham  
and Needham & Company, LLC,  
Respondents-Defendants.

-----X

Plaintiff-appellant having moved, pursuant to CPLR 5704, to vacate the order of a Justice of the Supreme Court, New York County, entered on or about April 23, 2009, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Karla Moskowitz  
Sheila Abdus-Salaam  
Nelson S. Román, Justices.

-----X  
Dana N. Escoffier,  
Plaintiff-Appellant,

-against-

M-194  
Index No. 403105/08

Department of Housing and Community  
Renewal,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about June 3, 2009 (mot. seq. no. 001),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the September 2010 Term.

ENTER

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
Nella Manko,  
Plaintiff-Appellant,

-against-

M-5799  
Index No. 109296/07

Dr. Dana Mannor, et al.,  
Defendants-Respondents,

Lenox Hill Hospital, etc., et al.,  
Defendants.

-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 10, 2009 (Appeal No. 1720 and 1721),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzairelli  
Eugene Nardelli  
James M. Catterson  
Karla Moskowitz, Justices.

-----X  
CSAM Capital Inc., et al.,  
Petitioners-Respondents,

-against-

Ronald S. Lauder, et al.,  
Respondents-Appellants.

M-4672  
M-4894  
Index No. 601376/07

-----X

Petitioners-respondents having moved by separate motions for reargument of (M-4672) or, in the alternative, for leave to appeal to the Court of Appeals (M-4894) from the decision and order of this Court entered on September 22, 2009 (Appeal No. 128), and for other relief,

Now, upon reading and filing the papers with respect to the motions, and due deliberation having been had thereon,

It is ordered that the motions are denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----x  
Trumps Marks LLC,  
Plaintiff-Appellant,

-against-

M-5686  
M-5694  
Index No. 601372/08

Crescent Heights Diamond, LLC,  
Defendant-Respondent,

Sonny Kahn, etc., et al.,  
Defendants-Respondents.

-----x

An order of this Court having been entered on November 17, 2009 (M-4739/M-4872), inter alia, enlarging plaintiff's time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about December 23, 2008, to the February 2010 Term, with no further enlargements to be granted,

And defendants-respondents Crescent Heights Diamond, LLC (M-5686) and Sonny Kahn, et al. (M-5694) having moved, by separate motions, for dismissal of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motions, and due deliberation having been had thereon,

It is ordered that the motions are granted and the appeal is dismissed.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
235 West 22<sup>nd</sup> Street, LLC,

Petitioner-Landlord-Respondent,

-against-

M-26  
Index No. 570598/08

Oleg Genshaft,

Respondent-Tenant-Appellant.  
-----X

Respondent having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about August 27, 2009,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
David Friedman  
Eugene Nardelli  
John T. Buckley  
Sheila Abdus-Salaam, Justices.

-----X  
Warren Cole,

Plaintiff-Appellant,

-against-

M-3849  
Index No. 604784/99

Harry Macklowe,

Defendant-Respondent.  
-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on July 21, 2009 (Appeal No. 825),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Eugene Nardelli  
Sheila Abdus-Salaam, Justices.

-----X  
Probate Proceeding, Will of

Rocky H. Aoki, also known as  
Hiroaki Aoki,  
Deceased.

M-593  
Surrogate's Court  
File No. 2604-2008

-----  
Keiko Aoki,  
Petitioner-Respondent,

Kana Aoki Nootenboom, Kevin Aoki,  
Echo Aoki and Kyle Aoki,  
Objectants-Appellants.

-----X

An appeal having been taken to this Court from the order of the Surrogate's Court, New York County, entered on or about December 28, 2009 and as modified by the order of said Court, entered on or about February 2, 2010,

And objectants-appellants having moved to stay certain aspects of discovery, pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted only to the extent of continuing the relief afforded objectants by the order of a Justice of this Court, dated February 3, 2010, which extended deadline for discovery to March 12, 2010, and the motion is otherwise denied.

ENTER



Clerk:

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

-----X  
Devorah Smilow, etc.,

Petitioner-Appellant,

-against-

M-5838

Index No. 108183/08

New York City Department of Finance  
Parking Violations Adjudications  
Division, et al.,

Respondents-Respondents.

-----X

Petitioner-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 1, 2009 (Appeal No. 1603),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on February 25, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-98  
Ind. No. 8820/98

Dale R. Harvey,  
Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of **resentence** of the Supreme Court, New York County, entered on or about December 8, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-151  
Ind. No. 2051/08

Carlos Tamayo,

Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about November 13, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$5,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-99  
Ind. No. 3399/09

Calvin Hudson,

Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about December 9, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$7,500 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
Eugene Nardelli  
James M. Catterson  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
The Estate of Yaron Unger by and through  
its Administrator, David Strachman,  
et al.,

Plaintiffs-Appellants,

M-598

Index No. 102101/06

-against-

The Palestinian Authority, et al.,  
Defendants,

The Palestinian Pension Fund for the  
State Administrative Employees in the  
Gaza Strip,

Defendant-Respondent.

-----X  
An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 9, 2009 (mot. seq. no. 015), and said appeal having been perfected,

And defendant-respondent having moved for leave to file a supplemental record on appeal, a copy thereof having been submitted with the moving papers,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of directing defendant-respondent to immediately file 10 copies of the supplemental record on appeal submitted with their moving papers.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present - Hon. David B. Saxe, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----x  
In the Matter of the Probate of the  
Will of

Elsa K. Bryer,  
  
Deceased.

-----  
Elliott K. Bryer,  
Petitioner-Appellant,

M-5492  
File No. 583/94

-against-

The Bank of New York, Bess Hurand,  
Bruce B. Kastor and James Kastor,  
Respondents-Respondents.

-----x  
An appeal having been taken to this Court from the order of the Surrogate's Court, New York County, entered on or about November 18, 2008,

And Calman Greenberg, Esq., counsel for petitioner, having moved for leave to withdraw as counsel in connection with the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted, and the Clerk is directed to maintain the appeal on the calendar for hearing in the April 2010 Term.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Eugene Nardelli  
Helen E. Freedman, Justices.

-----X  
Saba Candy & Grocery Inc.,  
Plaintiff-Appellant,  
  
-against-  
  
Harrod West Associates, LLC,  
Defendant-Respondent.  
-----X

M-117  
Index No. 303141/09

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about October 20, 2009,

And plaintiff-appellant having moved in the nature of a preliminary appellate injunction tolling the cure period with respect to a Yellowstone injunction, pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted on condition plaintiff-appellant pays monthly use and occupancy pursuant to the order of the Supreme Court, Bronx County, dated July 13, 2009, continues to maintain defendant as an additional insured, and perfects the appeal on or before March 22, 2010 for the June 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided that defendant-respondent serves a copy of this order upon plaintiff-appellant within 10 days after the date of entry hereof.

ENTER:  
  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Eugene Nardelli  
Helen E. Freedman, Justices.

-----X  
Colonial Surety Company,  
Plaintiff-Respondent,

-against-

M-59  
Index No. 603656/08

Eastland Construction, Inc., Nancy  
Schulman and Allan Schulman,  
Defendants-Appellants.

-----X

Defendants-appellants having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about August 3, 2009 (mot. seq. no. 001),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Rolando T. Acosta  
Helen E. Freedman, Justices.

-----X  
Carmine N. Pagano, Patient,  
Plaintiff,

-against-

M-534  
Index No. 108018/03

Pasquale J. Malpeso, D.M.D., et al.,  
Defendants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 30, 2009,

And plaintiff having moved for an order directing that this matter be tried before a jury and requesting a change of venue of said trial,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Rolando T. Acosta  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----X  
Jeffrey Hoffman,  
Plaintiff-Respondent,

-against-

Helm Capital Group, Inc.,  
Defendant-Appellant.

M-5783  
Index No. 603109/08

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about March 26, 2009,

And defendant-appellant having moved for a stay of enforcement of the judgment pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 25, 2010.

Present - Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Rolando T. Acosta  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-15  
Ind. No. 4635/08

Ramon Urena,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, Bronx County, rendered on or about March 16, 2009, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the moving papers a timely filed notice of appeal and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York, 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



Clerk.

STATE OF NEW YORK  
APPELLATE DIVISION: FIRST DEPARTMENT

BEFORE: Hon. Sallie Manzanet-Daniels  
Justice of the Appellate Division

-----X  
The People of the State of New York,

-against-

M-5310  
Ind. No. 3149N/08

Junior Lantigua

ORDER DENYING BAIL  
PENDING APPEAL

Defendant.

-----X

An appeal having been taken to this Court by the above-named defendant from the judgment of the Supreme Court, New York County, rendered on October 27, 2009, and defendant having moved, pursuant to CPL 460.50 and 530.50 for an order of recognizance or bail pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers filed in support of said motion, and further papers filed in relation thereto; and due deliberation having been had thereon,

It is ordered that the motion be and the same hereby is denied.

Dated: February 11, 2009  
New York, New York

  
Justice of the Appellate Division

ENTERED: FEB 25 2010

PM ORDERS

ENTERED

FEBRUARY 23, 2010

CORRECTED ORDER - February 24, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 23, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Leland G. DeGrasse  
Helen E. Freedman  
Sallie Manzanet-Daniels, Justices.

-----X  
The City of New York, et al.,

Plaintiffs,

-against-

330 Continental LLC, et al.,

Defendants.  
-----X

M-689  
Index No. 406350/07

**Defendants** having moved, pursuant to CPLR 5704(a), for an order of this Court granting certain relief denied by a Justice of the Supreme Court, New York County, on or about January 27, 2010, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 23, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
James M. Catterson  
Dianne T. Renwick  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
American Arbitration Association, Inc.,  
Plaintiff-Respondent,

-against-

Laurus Capital Management, LLC, et al.,  
Defendants-Appellants.  
-----X

M-551  
Index No. 115499/09

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 7, 2010, and said appeal having been perfected,

And plaintiff-respondent having moved to dismiss the appeal or, in the alternative, to strike certain portions of the record on appeal or enlarge said record on appeal to include the Reply Affirmation of Joshua D. Bernstein, dated February 16, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion, to the extent it seeks to dismiss the appeal, is denied. So much of the motion which seeks to enlarge the record on appeal is granted to the extent of directing plaintiff-respondent to immediately file a supplemental record on appeal to include the aforesaid Reply Affirmation of Joshua D. Bernstein with supporting exhibits, without prejudice to defendants raising objections in their reply brief, and the motion is otherwise denied.

ENTER:

  
Clerk.